IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 1350 of 1995

Between:

1. G.P.Krishna Iyengar, S/o. late S.D.S. Iyengar,
   3-6-721, Street No.11, Himayatnagar, Hyderabad.
2. G.P.Rangaraj, S/o. late S.D.S. Iyengar,
   3-6-721, Street No.11, Himayatnagar, Hyderabad

both are rep. by their G.P.A. Holder,

Mr. P.Venkata Ram Reddy, s/o P.L.N. Reddy,

age 46 years, R/o.1-8-702/21/2, Nallakunta, Hyderabad

.... PETITIONERS

AND

1 The Commissioner
  M.C.H. Tankbund , Hyderabad.
2 The Deputy Commissioner,
  M.C.H. Circle-III, Khariatabad, Hyderabad.
3 B.K.Doraiswamay, S/o. B.Y.K.Iyengar.
4 B.K.Mukund, S/o. B.Y.K.Iyengar
  (R3 & R4 are impleded as per court order

dated 08-07-1998 in WPMPNo.16087/98.)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a direction, writ or order, one in the nature of Certirorari: a) Calling for the records pertaining to the impugned notice dated 21/01/95 bearing Sl.No.35 Circle-III, TP section issued by the respondents stating that the sanctioned rear open space of

the building in the premises bearing No. 3-6-721, street, No. 11, Himayatnagar, Hyderabad is not maintained without giving any notice under Sec. 452 of the HMC Act and the same may be quashed as arbitrary and illegal; b) granting all consequential benefits; c) awarding costs.

Counsel for the Petitioners: MR.S.BHOOMA GOUD

Counsel for the Respondents1 & 2: MR.RAMA RAO GANTA

(SC for MCH)

Counsel for the Respondents3 & 4: Mr. P. Govind Reddy

The Court made the following

ORDER:

Heard both sides.

The petitioners have approached this Court prior to the issuance of show cause notice. In other words, when the petitioners were only asked to stop the construction on the ground that there are certain deviations, the present writ petition has been filed.

It is settled law that the Municipal Corporation of Hyderabad has the authority to ask a person, who raised the construction in deviation to the approved plan. After verification, as and when the actual deviations are pointed out and indicated in a show cause notice, explanation can be offered by the persons like petitioners. Obviously, the stage of issuing of a show cause notice did not arise and hence this Court cannot go into the controversy raised by the petitioners at this juncture. On this ground alone, the Writ Petition is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, the petitioners are at liberty to approach this Court at appropriate stage, if aggrieved by any action of the respondents at a later point of time. No costs.

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D.S.R. VARMA, J

23rd September, 2004

lsn/krk

To

1 The Commissioner
M.C.H. Tankbund , Hyderabad.
2 The Deputy Commissioner,
M.C.H. Circle-III, Khariatabad, Hyderabad.
3. Two CD copies.